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UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

DENNIS MCGEE,

Plaintiff,

vs.

ANDREW SAUL,
Commissioner of Social Security,

Defendant.

Case No.: 2:20-cv-01303-EJY

**UNOPPOSED MOTION FOR EXTENSION OF
TIME TO FILE CERTIFIED
ADMINISTRATIVE RECORD AND ANSWER;
DECLARATIONS OF JEBBY RASPUTNIS AND
CHRISTIANNE VOEGELE**

(SECOND REQUEST)

1 Defendant, Andrew Saul, Commissioner of Social Security (the “Commissioner”), by and through
2 his undersigned attorneys, hereby moves for a sixty-day extension of time to file the Certified
3 Administrative Record (CAR) and answer to Plaintiff’s Complaint. The CAR and answer to Plaintiff’s
4 Complaint are due to be filed by November 24, 2020. This is the Commissioner’s second request for an
5 extension. The following provides the Court with an updated status of the agency’s ability to prepare
6 CARs, including an updated declaration from Jebby Rasputnis.

7 In light of the global COVID-19 pandemic, the Social Security Administration (“SSA” or the
8 “Agency”) has taken the unprecedented step of suspending in-office services to the public:
9 <https://www.ssa.gov/coronavirus/>. The Agency is focusing on providing the most critical services by mail,
10 phone and online to those most in need. SSA is also taking additional steps to protect its employees and
11 help stop the spread of COVID-19, maximizing social distancing, including significantly limiting employee
12 access to SSA facilities for health and safety only and has moved toward a temporary virtual work
13 environment. Electronic processes allow some of SSA’s most critical work to continue with minimal
14 interruption; other workloads have been suspended until the health crisis abates or the Agency is able to
15 create new electronic business processes.

16 For purposes of this particular case, the public health emergency pandemic has significantly
17 impacted operations in the Social Security Administration’s Office of Appellate Operations (OAO) in Falls
18 Church, Virginia. That office is responsible for physically producing the administrative record that is
19 required to adjudicate the case under Sections 205(g) and (h) of the Social Security Act, 42 U.S.C. § 405(g)
20 and (h). *See* SSA Program Operations Manual System GN 03106.025, *available at*
<https://secure.ssa.gov/apps10/poms.nsf/lnx/0203106025>.

21 As detailed in the attached declarations, beginning March 16, 2020, OAO’s staff members began
22 to telework to protect employee health and prevent further spread of COVID-19. At that time, critical in-
23 person physical tasks associated with preparing the administrative record could not be accomplished. For
24 example, prior to the COVID-19 pandemic, to safeguard Personally Identifiable Information (PII), all
25 hearing recordings, which are part of the administrative record, were downloaded onto compact discs and
26 encrypted. OAO securely routed the encrypted discs to a private contractor through a daily pickup and

1 delivery service at the Official Duty Station (ODS) in Falls Church, Virginia. The private contractor would
2 transcribe the hearing recording and send the paper copy of the hearing transcript back to OAO. OAO
3 personnel would then scan the hearing transcript into the electronic record or place the hearing transcript
4 in the paper case file. Thereafter, OAO personnel would assemble the administrative record in a prescribed
5 order.

6 To ensure a continuity of operations, OAO has been actively pursuing mitigation efforts to allow
7 the remote preparation of administrative records. For cases in which the private contractors were already
8 in possession of hearing recordings for transcription, with the assistance of the Office of Acquisitions and
9 Grants (OAG), OAO received approval to receive these transcripts from the private contractors via secured
10 email, e.g., using password protection and redacted Social Security Numbers. In April 2020, OAO began
11 receiving such hearing transcripts from private contractors via secured email.

12 For cases in which OAO had not yet submitted recordings to the private contractors before March
13 16, 2020, OAO has been pursuing all available options to obtain transcriptions for these cases. In May
14 2020, OAO began encrypting hearing recordings and securely emailing them to the contractors for
15 transcription. Through the month of May, OAO and the contractors worked to resolve technical issues that
16 arose, particularly with large files. The process is functioning now, albeit at only half of normal
17 productivity.

18 Given the volume of pending cases, Defendant requests an extension in which to respond to the
19 Complaint until January 25, 2021. If in sixty days the CAR is not prepared, the Commissioner will file a
20 status report with the Court as to when he expects the CAR to be completed.

21 On November 17, 2020, the undersigned conferred with Plaintiff's counsel, who has no opposition
22 to the requested extension.

23 It is therefore respectfully requested that Defendant be granted an extension of time to file the CAR
24 and answer to Plaintiff's Complaint, through and including January 25, 2021.

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1 Dated: November 17, 2020

2 NICHOLAS A. TRUTANICH
3 United States Attorney

4 /s/ Allison J. Cheung
5 ALLISON J. CHEUNG
6 Special Assistant United States Attorney

7 **ORDER**

8 IT IS SO ORDERED that Defendant's request for an extension of 60 days to file the Certified
9 Administrative Record and Answer to Plaintiff's Complaint is GRANTED; provided, however, that no
10 further extensions of time will be granted.

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12 UNITED STATES MAGISTRATE JUDGE

13 DATED: November 17, 2020
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